

# Ministerial power to ban certain products

1 January 2010

## Q1 What does this new power mean?

The Minister will have the power to ban tobacco products and products *resembling* tobacco products which are designed to be appealing to children and young people on the basis that

- a) the product -
  - i. is a tobacco product and the product or its smoke possesses a distinctive fruity, sweet or confectionery-like character; or
  - ii. is a tobacco product and has packaging that appeals to children or young people; or
  - iii. is not a tobacco product but resembles a tobacco product; or
  - iv. is of a nature or is advertised in a way that may encourage children or young people to smoke; and
- b) the supply of the product should be prohibited, having regard to the objects of the Act.

## Q2 When else can the Minister ban products?

The *Tobacco Act 1987* provides that the Minister may ban tobacco products and products resembling tobacco products if the product or class of products has been prohibited or restricted by or under a prescribed law of the Commonwealth or another State or Territory that corresponds to Section 15N of the Act.

## Q3 What type of tobacco products are likely to be banned?

The Minister has already indicated that fruit and confectionery flavoured cigarettes will be banned using this new power. In addition, any new tobacco product found to be appealing to children or young people may also be banned in the future.

## Q4 What other non-tobacco products may the Minister ban?

This may include confectionery and toys which resemble tobacco or smoking products.

## Q5 How will I know which products are banned?

An initial ban order will be made and introduced on 1 January 2010 to ban a range of existing products which meet the criteria.

Further ban orders will be made in the future as they are required. When these are made, they will be advertised in the Government Gazette and newspapers. The Minister will also notify known suppliers of products banned.

## **Q6 When will the ban be effective from?**

A ban order takes effect on the date specified or 7 days after the order is published in the Government Gazette, whichever is later.

## **Q7 Who is responsible for selling a product after the ban?**

It will be an offence to sell a banned product by retail or wholesale.

A separate offence exists for a tobacco company who either intentionally or recklessly contravenes the ban order or causes another person to contravene.

## **Q8 What are the penalties?**

The maximum penalty for an individual breaching this law will be 120 penalty units<sup>1</sup>.

The maximum penalty for a body corporate breaching this law will be 600 penalty units.

The maximum penalty for a tobacco company breaching this law will be 5000 penalty units.

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<sup>1</sup> A penalty unit for 2009/10 is \$116.82 (indexed annually).  
For updated penalty unit values visit the Office of the Chief Parliamentary Counsel [website](#).

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